

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**SCOTT TOELK a/k/a SCOTT
DIDONATO, RICHARD TOELK, and
VERONICA TOELK-GARBARINO,
Plaintiffs,**

v.

**PAUL MORRISSEY, ANDY WARHOL
FOUNDATION FOR THE VISUAL
ARTS, INC., IMAGE ENTERTAINMENT,
INC., and SCORE-SARX COMPANY.,
Defendants.**

CIVIL ACTION

NO. 09-5630

ORDER

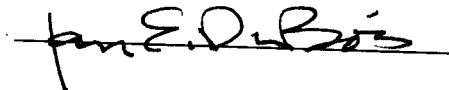
AND NOW, this 1st day of March, 2010, upon consideration of Defendant Andy Warhol Foundation for the Visual Arts, Inc.'s Motion to Strike Plaintiffs' Second Amended Complaint (Document No. 25, filed February 24, 2010), Defendant Paul Morrissey's and Image Entertainment, Inc.'s Motion to Strike the Second Amended Complaint (Document No. 26, filed March 1, 2010), and the Second Amended Complaint (Document No. 24, filed February 18, 2010), notwithstanding the fact that, in violation of Federal Rule of Civil Procedure 15(a)(2), plaintiffs filed the Second Amended Complaint without first obtaining leave of Court,¹ in order to expedite the disposition of this case, **IT IS ORDERED** that Defendant Andy Warhol Foundation for the Visual Arts, Inc.'s Motion to Strike Plaintiffs' Second Amended Complaint and Defendant Paul Morrissey's and Image Entertainment, Inc.'s Motion to Strike the Second Amended Complaint are **DENIED WITHOUT PREJUDICE**.

Upon further consideration of Defendant Andy Warhol Foundation for the Visual Arts, Inc.'s Motion to Dismiss Plaintiffs' Amended Complaint (Document No. 16, filed February 8,

¹ Pursuant to Federal Rule of Civil Procedure 15(a)(2), plaintiffs must obtain leave of Court before filing any further amended complaints.

2010) and Defendant Paul Morrissey's and Image Entertainment, Inc.'s Motion to Dismiss the Amended Complaint (Document No. 19, filed February 8, 2010), and the fact that plaintiffs have filed a Second Amended Complaint, **IT IS FURTHER ORDERED** that Defendant Andy Warhol Foundation for the Visual Arts, Inc.'s Motion to Dismiss Plaintiffs' Amended Complaint and Defendant Paul Morrissey's and Image Entertainment, Inc.'s Motion to Dismiss Amended Complaint are **DENIED AS MOOT**. Defendants are **GRANTED LEAVE** to file and serve motions to dismiss the Second Amended Complaint within twenty days of the entry of this Order. If additional time is needed, defendants may request an extension within this twenty day period, by letter to the Court. Two (2) copies of any motion to dismiss the Second Amended Complaint shall be served on the Court (Chambers, Room 12613) when the original is filed.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Jan E. Dubois", written over a horizontal line.

JAN E. DUBOIS, J.